



TFW 1617

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor Application of:

Jacques DUMAS et al.

Confirmation No.: 8328

Serial No.: 09/458,014

Examiner: MITCHELL, Gregory W.

Filed: December 10, 1999

Group Art Unit: 1617

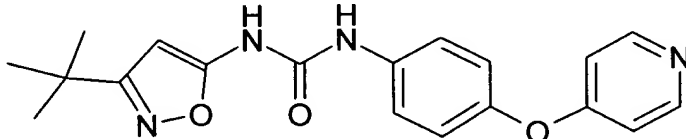
Title: INHIBITION OF P38 KINASE USING ACTIVITY SUBSTITUTED
HETEROCYCLIC UREAS

REPLY

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the thirty-day notice mailed November 7, 2006, applicants respectfully repeat their election of Group II, directed to 1,2 oxazoles so as to encompass the elected species, compound 163 (not 120) having the following formula:

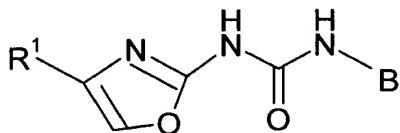


The thirty day notice indicates the election of Group II is not responsive in that applicant's previously elected Group V. No action has been given on the subject matter of Group V. Therefore, applicants submit it would not be inconsistent with the policy set forth in MPEP 819 to permit applicant to shift the election to Group II. In addition, Applicant's initial response to the restriction requirement was never accepted as complete such that an effective election of subject matter was not made when Group V was identified and the election was still in issue. The first complete and proper response to the restriction requirement was made with the election of Group II and the election of the species above. Therefore, examination of the subject matter within Group II is consistent with MPEP 819 and appropriate under the circumstances.

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the U.S. Postal Services as First Class Mail in an envelope addressed to: Commissioner of Patents, P O Box 1450, Alexandria, VA 22313-1450 on: December 1, 2006
Name: Richard S. Traverso
Signature: [Signature]

To complete the response to the thirty day notice, applicants must make an election of species (37 CFR1.143.). Applicants elect the subspecies of claim 38.



wherein R¹ and B are as defined in Claim 1.

Applicants maintain that the restriction requirement is improper in that the full scope of all claims was examined earlier and no evidence has been presented showing that it would be an undue burden to continue the examination of the full scope of the claims. Furthermore, the requirement restricts subject matter within a single claim (claim 1), which is improper, particularly since claim 1 defines a proper Markush group of ureas.

The Commissioner is hereby authorized to charge any fees associated with this response or credit any overpayment to Deposit Account No. 13-3402.

Respectfully submitted,

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Date: December 7, 2006